

## § 809.40

to patients and practitioners, e.g., forensic, academic, research, and other nonclinical laboratories.

[62 FR 62259, Nov. 21, 1997]

### **§ 809.40 Restrictions on the sale, distribution, and use of OTC test sample collection systems for drugs of abuse testing.**

(a) Over-the-counter (OTC) test sample collection systems for drugs of abuse testing (§864.3260 of this chapter) are restricted devices under section 520(e) of the Act subject to the restrictions set forth in this section.

(b) Sample testing shall be performed in a laboratory using screening tests that have been approved, cleared, or otherwise recognized by the Food and Drug Administration as accurate and reliable for the testing of such specimens for identifying drugs of abuse or their metabolites.

(c) The laboratory performing the test(s) shall have, and shall be recognized as having, adequate capability to reliably perform the necessary screening and confirmatory tests, including adequate capability to perform integrity checks of the biological specimens for possible adulteration.

(d) All OTC test sample collection systems for drugs of abuse testing shall be labeled in accordance with §809.10(f) and shall provide an adequate system to communicate the proper interpretation of test results from the laboratory to the lay purchaser.

[65 FR 18234, Apr. 7, 2000]

## **PART 810—MEDICAL DEVICE RECALL AUTHORITY**

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AUTHORITY: 21 U.S.C. 321, 331, 332, 333, 334, 351, 352, 360h, 371, 374, 375.

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### **Subpart A—General Provisions**

#### **§ 810.1 Scope.**

Part 810 describes the procedures that the Food and Drug Administration will follow in exercising its medical device recall authority under section 518(e) of the Federal Food, Drug, and Cosmetic Act.

#### **§ 810.2 Definitions.**

As used in this part:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act.

(b) *Agency* or *FDA* means the Food and Drug Administration.

(c) *Cease distribution and notification strategy* or *mandatory recall strategy* means a planned, specific course of action to be taken by the person named in a cease distribution and notification order or in a mandatory recall order, which addresses the extent of the notification or recall, the need for public warnings, and the extent of effectiveness checks to be conducted.

(d) *Consignee* means any person or firm that has received, purchased, or used a device that is subject to a cease distribution and notification order or a mandatory recall order. Consignee does not mean lay individuals or patients, i.e., nonhealth professionals.

(e) *Correction* means repair, modification, adjustment, relabeling, destruction, or inspection (including patient monitoring) of a device, without its physical removal from its point of use to some other location.

(f) *Device user facility* means a hospital, ambulatory surgical facility, nursing home, or outpatient treatment or diagnostic facility that is not a physician's office.